

REMARKS

Claims 1-6, 8, 10 and 12-15 remain in the application. Applicant respectfully requests re-examination.

Claim 15 was objected to because of the failure to identify paint sample cards as "physical" paint sample cards. Claim 15 has been amended to recite "physical paint sample cards" as requested in the Office Action.

Applicant respectfully requests that this objection be withdrawn.

Claims 1-6, 8, 10 and 12-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Spangler* (6,270,123), *Lodwick* (2,203,167) and further in view of *Wright et al.* (2004/0046802), a new combination of references. This rejection now encompasses claims 7 and 11 which were previously indicated as containing allowable subject matter.

Applicant respectfully traverses.

The Office Action rejected all of the claims in the application as unpatentable over the combination of the three references, *Spangler*, *Lodwick* and *Wright et al.* even though the Office Action concluded: "Spangler does not explicitly disclose placing one point [paint] color on each physical sample card however Lodwick does" (page 3 of the Office Action); "Neither Spangler nor Lodwick disclose arranging colors in the display so that they vary gradually in hue in a first direction and chroma in a second direction" (page 4 of the Office Action); "*Spangler* does not explicitly disclose one or more physical color coordinate sample cards arranged adjacent to a first paint sample card however Lodwick does" (page 9 of the Office Action); "Neither Spangler nor Lodwick disclose a range in colors in displays so that they vary gradually in hue in a first direction and chroma in a column direction from most chromatic to least chromatic" (page 10 of the Office Action); "Spangler does not explicitly close one or more physical color coordinate

sample cards arranged adjacent to a first paint sample card however Lodwick does” (page 12 of the Office Action); and “Neither Spangler nor Lodwick disclose arranging colors in a display so that they vary gradually in hue in a first direction and chroma in a column direction, from most chromatic to least chromatic” (page 12 of the Office Action).

Apparently the gaps in the lack of teaching in both *Spangler* and *Lodwick* are filled by *Wright et al.* But, the Office Action expressly notes [neither] “Spangler, Lodwick nor Wright et al. explicitly disclose each sample card having two or more paint colors having similar hue but varying or different chromatic values” (page 7 of the Office Action). Applicant reads this statement as including “neither” because of the “nor” used in the Office Action.

In spite of this lack of teaching by the combination of *Spangler*, *Lodwick* and *Wright et al.* the Office Action concludes that the claimed invention is obvious in light of these three references. Applicant respectfully traverses.

*Spangler* is directed to a color selection scheme which organizes multiple closely related colors ranging from red to violet, for example, on a single paper strip as stripes, with each stripe varying in hue along the longitudinal axis of the elongated strip. A plurality of first elongated paper strips having a pastel base are arranged in a row with the longitudinal axis of each strip horizontally aligned. Additional rows have a second plurality of elongated paper strips containing stripes of different hues, with the colors being prepared from a tint base. A third plurality of elongated paper strips in additional rows contain stripes of colors prepared from a deep base. A fourth plurality of elongated paper strips contain stripes of different hues of colors prepared from an accent base.

*Spangler* teaches that his color arrangement is “...the horizontal rows... formed of adjacent stripes or color fields of different hues, and that each of the stripes vary in hue from the

adjacent stripe by increasing the wave length of light when taken in one direction along the horizontal row, or a decrease in the wave length when taken in the opposite direction along the same horizontal row.” (Column 10, lines 56-63)

The object of *Spangler's* invention is succinctly stated as to provide “...the perspective customer with a take-home card which contains only a plurality of closely-related color stripes from the same family or type of base paint, whether it be a pastel, tint, deep or accent base.” (Column 2, lines 42-45)

Accordingly, *Spangler's* display system completely ignores “arranging one or more color combination physical paint sample cards adjacent to the first plurality of physical paint sample cards, each color combination paint sample card including the color of one of the first plurality of physical paint sample cards it is adjacent to and one or more complementary colors,” as recited in claim 1. *Spangler* only provides cards that contain “a plurality of closely-related color stripes from the same family or type of base paint.” (Column 2, lines 42-45) *Spangler* does not show, teach or contemplate “one or more physical color coordination sample cards arranged adjacent to the first plurality of physical paint sample cards, each physical color coordination sample card including one of the colors in the adjacent first plurality of physical paint sample cards and one or more complementary colors,” as recited in claim 8 or claim 12.

The Office Action admits this.

*Lodwick* is concerned with “...a method of and means for identifying and reproducing color harmony which provides an accurate and precise method of matching hues, chroma and value of a color.” (Column 1, lines 6-10) In other words, *Lodwick* is concerned with accurately and quickly being able to reproduce the tone of any selected color by use of his “directories” 11 and 12. “The directories are made up of a plurality of leaves of color tones progressively graded

as to change of values of the respective colors of the visible spectrum. (Column 2, lines 15-19) Directory 12, however, has color tone cards that "...are complementary colors of those mounted and listed in the directory 11." (Column 2, lines 34-37)

*Lodwick* does all this in order to be able to provide mixing directions that consistently produce the color selected. *Lodwick's* directory 12 has complementary colors to the colors mounted in directory 11, so that it shows "...the hue that is the complement of the one selected and also shows which hue is combined with the specific hue for obtaining either the balance three tone harmony or balance four tone harmony in conjunction with this hue." (Column 3, lines 35-41).

*Lodwick* is not concerned with "arranging one or more color combination physical paint sample cards adjacent to the first plurality of physical paint sample cards, each color combination paint sample card including the color of one of the first plurality of physical paint sample cards it is adjacent to and one or more complementary colors," as recited in claim 1. *Lodwick* is not concerned with providing "one or more physical color coordination sample cards arranged adjacent to the first plurality of physical paint sample cards, each physical color coordination sample card including one of the colors in the adjacent first plurality of physical paint sample cards and one or more complementary colors," as recited in claims 8 and 12. *Lodwick* is only concerned with providing "...an individual card [that] has thereon the identification necessary to convey the descriptive properties of the particular hue with reference to the directory and its basic characteristics may be found by reference to the numbers upon the back of the color tone card." (Column 3, lines 54-58) The fact that each single card contains only a single color and is used to mix the paint for that color is the intent of *Lodwick* is clearly evidenced when *Lodwick* states "Thus a card may be detached from the directory and used as a

reference or matching unit. Thus, every characteristic of an individual color or tone is ascertainable within my directory.” (Column 3, lines 65-69)

*Wright et al.* is directed to a computer system that contains a selection means in the form of a “graphical user interface having a first display area for displaying colours available for selection and a second display area for displaying selected colours forming a palette of colours.” (Column 1, paragraph 8) The *Wright et al.* system, by way of the user interface, displays a large number of colors to the user in the form of a color map. “When a user selects any one colour, from the colour map, a restricted colour map is displayed which displays only colours which are designated as being harmonious with the selected colour. The user may then select further colours from the restricted colour map to generate a palette of colours which are visually harmonious together.” (Column 3, paragraph 28)

As shown in Figure 3 of *Wright et al.*, “The colour map display area 110 includes a grid of twenty columns by nine rows, giving rise to one hundred eighty square regions 130 each of which may be coloured when activated.” (Column 6, paragraph 48)

In addition, the display includes a palette display area 80 which has a “...first area 91 comprising six squares 90 for displaying up to six different colours contained within a dominant palette, and a second area 93 comprising eighteen squares 92 for displaying up to eighteen colours contained within a supporting palette.” (Column 6, paragraph 45) According to *Wright et al.*, the “Supporting colours which should only be used for small details or other less prominent aspects of the project are contained within the supporting palette and can be much more numerous (i.e. up to eighteen) than the number of colours in the dominant palette.” (Column 6, paragraph 45)

*Wright et al.* fails to teach, show or contemplate "arranging one or more color combination physical paint sample cards adjacent to the first plurality of physical paint sample cards, each color combination paint sample card including the color of one of the first plurality of physical paint sample cards it is adjacent to and one or more complementary colors," as recited in claim 1, or "one or more physical color coordination sample cards arranged adjacent to the first plurality of physical paint sample cards, each physical color coordination sample card including one of the colors in the adjacent first plurality of physical paint sample cards and one or more complementary colors," as recited in claims 8 and 12.

Claims 2-6 depend from claim 1. Claim 10 depends from claim 8. Claims 13-15 depend from claim 12. These claims are seen as allowable for the reasons stated above for their respective independent claims.

Applicant respectfully requests that this rejection be withdrawn.

In light of the amendments and arguments set forth above, that the claims patentably define over the combination of *Spangler*, *Lodwick* and *Wright et al.*, applicant respectfully requests that all the claims be allowed, and this application passed to issue.

Very truly yours,

**SNELL & WILMER L.L.P.**



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